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| FORM PTO-1390 (Modified) (REV 11-2000) | | U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE | | ATTORNEY'S DOCKET NUMBER GKS-101.0 (7911/83687) | |
| TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 U.S.C. 371 | | | | | |
| INTERNATIONAL APPLICATION NO. PCT/EP00/02410 | | INTERNATIONAL FILING DATE 03/17/2000 | | U.S. APPLICATION NO. (IF KNOWN, SEE 37 CFR 09/936,852 | |
| | | | | PRIORITY DATE CLAIMED 03/17/1999 | |
| TITLE OF INVENTION NUCLEIC ACID MOLECULE COMPRISING A NUCLEIC ACID CODING FOR A HEMOCYANIN | | | | | |
| APPLICANT(S) FOR DO/EO/US Jurgen MARKL, et al. | | | | | |
| Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information: | | | | | |
| <ol style="list-style-type: none"> 1. <input type="checkbox"/> This is a FIRST submission of items concerning a filing under 35 U.S.C. 371. 2. <input checked="" type="checkbox"/> This is a SECOND or SUBSEQUENT submission of items concerning a filing under 35 U.S.C. 371. 3. <input checked="" type="checkbox"/> This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (24) indicated below. 4. <input type="checkbox"/> The US has been elected by the expiration of 19 months from the priority date (Article 31). 5. <input type="checkbox"/> A copy of the International Application as filed (35 U.S.C. 371 (c) (2)) <ol style="list-style-type: none"> a. <input type="checkbox"/> is attached hereto (required only if not communicated by the International Bureau). b. <input type="checkbox"/> has been communicated by the International Bureau. c. <input type="checkbox"/> is not required, as the application was filed in the United States Receiving Office (RO/US). 6. <input type="checkbox"/> An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)). <ol style="list-style-type: none"> a. <input type="checkbox"/> is attached hereto. b. <input type="checkbox"/> has been previously submitted under 35 U.S.C. 154(d)(4). 7. <input type="checkbox"/> Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371 (c)(3)) <ol style="list-style-type: none"> a. <input type="checkbox"/> are attached hereto (required only if not communicated by the International Bureau). b. <input type="checkbox"/> have been communicated by the International Bureau. c. <input type="checkbox"/> have not been made; however, the time limit for making such amendments has NOT expired. d. <input type="checkbox"/> have not been made and will not be made. 8. <input type="checkbox"/> An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)). 9. <input type="checkbox"/> An oath or declaration of the inventor(s) (35 U.S.C. 371 (c)(4)). 10. <input type="checkbox"/> An English language translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371 (c)(5)). 11. <input type="checkbox"/> A copy of the International Preliminary Examination Report (PCT/IPEA/409). 12. <input type="checkbox"/> A copy of the International Search Report (PCT/ISA/210). | | | | | |
| Items 13 to 20 below concern document(s) or information included: | | | | | |
| <ol style="list-style-type: none"> 13. <input type="checkbox"/> An Information Disclosure Statement under 37 CFR 1.97 and 1.98. 14. <input type="checkbox"/> An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included. 15. <input type="checkbox"/> A FIRST preliminary amendment. 16. <input type="checkbox"/> A SECOND or SUBSEQUENT preliminary amendment. 17. <input type="checkbox"/> A substitute specification. 18. <input type="checkbox"/> A change of power of attorney and/or address letter. 19. <input checked="" type="checkbox"/> A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 35 U.S.C. 1.821 - 1.825. 20. <input type="checkbox"/> A second copy of the published international application under 35 U.S.C. 154(d)(4). 21. <input type="checkbox"/> A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4). 22. <input checked="" type="checkbox"/> Certificate of Mailing by Express Mail 23. <input checked="" type="checkbox"/> Other items or information: | | | | | |
| Copy of Notification of Defective Response (2pgs); Copy of Raw Sequence Listing Error Report (9 pgs); Paper Copy of Substitute Sequence Listing (84 pgs); Diskette with CRF of Sequence Listing; Amendment under 37 CFR §1.825 (4pgs); Certificate of Express Mailing and Postcard | | | | | |

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|---|--|---|
| U.S. APPLICATION NO. (IF KNOWN, SEE 37 CFR 09/936,852 | INTERNATIONAL APPLICATION NO. PCT/EP00/02410 | ATTORNEY'S DOCKET NUMBER GKS-101.0 (7911/83687) |
|---|--|---|

| <p>24. The following fees are submitted:</p> <p>BASIC NATIONAL FEE (37 CFR 1.492 (a) (1) - (5)) :</p> <p><input type="checkbox"/> Neither international preliminary examination fee (37 CFR 1.482) nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO and International Search Report not prepared by the EPO or JPO \$1040.00</p> <p><input type="checkbox"/> International preliminary examination fee (37 CFR 1.482) not paid to USPTO but International Search Report prepared by the EPO or JPO \$890.00</p> <p><input type="checkbox"/> International preliminary examination fee (37 CFR 1.482) not paid to USPTO but international search fee (37 CFR 1.445(a)(2)) paid to USPTO \$740.00</p> <p><input type="checkbox"/> International preliminary examination fee (37 CFR 1.482) paid to USPTO but all claims did not satisfy provisions of PCT Article 33(1)-(4) \$710.00</p> <p><input type="checkbox"/> International preliminary examination fee (37 CFR 1.482) paid to USPTO and all claims satisfied provisions of PCT Article 33(1)-(4) \$100.00</p> <p style="text-align: center;">ENTER APPROPRIATE BASIC FEE AMOUNT =</p> <p>Surcharge of \$130.00 for furnishing the oath or declaration later than months from the earliest claimed priority date (37 CFR 1.492 (e)). <input type="checkbox"/> 20 <input type="checkbox"/> 30 \$0.00</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 20%;">CLAIMS</th> <th style="width: 20%;">NUMBER FILED</th> <th style="width: 20%;">NUMBER EXTRA</th> <th style="width: 20%;">RATE</th> <th style="width: 20%;"></th> </tr> <tr> <td>Total claims</td> <td>- 20 =</td> <td>0</td> <td>x \$18.00</td> <td>\$0.00</td> </tr> <tr> <td>Independent claims</td> <td>- 3 =</td> <td>0</td> <td>x \$84.00</td> <td>\$0.00</td> </tr> <tr> <td colspan="4">Multiple Dependent Claims (check if applicable) <input type="checkbox"/></td> <td>\$0.00</td> </tr> <tr> <td colspan="4" style="text-align: center;">TOTAL OF ABOVE CALCULATIONS =</td> <td>\$0.00</td> </tr> <tr> <td colspan="4"><input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. The fees indicated above are reduced by 1/2.</td> <td>\$0.00</td> </tr> <tr> <td colspan="4" style="text-align: center;">SUBTOTAL =</td> <td>\$0.00</td> </tr> <tr> <td colspan="4">Processing fee of \$130.00 for furnishing the English translation later than months from the earliest claimed priority date (37 CFR 1.492 (f)). <input type="checkbox"/> 20 <input type="checkbox"/> 30 +</td> <td>\$0.00</td> </tr> <tr> <td colspan="4" style="text-align: center;">TOTAL NATIONAL FEE =</td> <td>\$0.00</td> </tr> <tr> <td colspan="4">Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31) (check if applicable). <input type="checkbox"/></td> <td>\$0.00</td> </tr> <tr> <td colspan="4" style="text-align: center;">TOTAL FEES ENCLOSED =</td> <td>\$0.00</td> </tr> <tr> <td colspan="4"></td> <td> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Amount to be:</td> <td style="width: 50%; text-align: center;">\$</td> </tr> <tr> <td style="text-align: center;">refunded</td> <td></td> </tr> <tr> <td style="text-align: center;">charged</td> <td style="text-align: center;">\$</td> </tr> </table> </td> </tr> </table> <p>a. <input type="checkbox"/> A check in the amount of _____ to cover the above fees is enclosed.</p> <p>b. <input type="checkbox"/> Please charge my Deposit Account No. _____ in the amount of _____ to cover the above fees. A duplicate copy of this sheet is enclosed.</p> <p>c. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 23-0920. A duplicate copy of this sheet is enclosed.</p> <p>d. <input type="checkbox"/> Fees are to be charged to a credit card. WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</p> <p>NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the application to pending status.</p> <p>SEND ALL CORRESPONDENCE TO:</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Attn: Shannon L. Nebolsky Welsh & Katz, Ltd. 120 S. Riverside Plaza, 22nd Floor Chicago, IL 60606-3912</p> <div style="text-align: center; margin-top: 20px;">  24628 <small>PATENT, TRADEMARK OFFICE</small> </div> </div> <div style="margin-top: 20px;"> <p style="text-align: center;"><i>Shannon L. Nebolsky</i></p> <p>SIGNATURE</p> <p>Shannon L. Nebolsky</p> <p>NAME</p> <p>41,217</p> <p>REGISTRATION NUMBER</p> <p>December 18, 2002</p> <p>DATE</p> </div> | CLAIMS | NUMBER FILED | NUMBER EXTRA | RATE | | Total claims | - 20 = | 0 | x \$18.00 | \$0.00 | Independent claims | - 3 = | 0 | x \$84.00 | \$0.00 | Multiple Dependent Claims (check if applicable) <input type="checkbox"/> | | | | \$0.00 | TOTAL OF ABOVE CALCULATIONS = | | | | \$0.00 | <input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. The fees indicated above are reduced by 1/2. | | | | \$0.00 | SUBTOTAL = | | | | \$0.00 | Processing fee of \$130.00 for furnishing the English translation later than months from the earliest claimed priority date (37 CFR 1.492 (f)). <input type="checkbox"/> 20 <input type="checkbox"/> 30 + | | | | \$0.00 | TOTAL NATIONAL FEE = | | | | \$0.00 | Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31) (check if applicable). <input type="checkbox"/> | | | | \$0.00 | TOTAL FEES ENCLOSED = | | | | \$0.00 | | | | | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Amount to be:</td> <td style="width: 50%; text-align: center;">\$</td> </tr> <tr> <td style="text-align: center;">refunded</td> <td></td> </tr> <tr> <td style="text-align: center;">charged</td> <td style="text-align: center;">\$</td> </tr> </table> | Amount to be: | \$ | refunded | | charged | \$ |
|---|--------------|--------------|--------------|--|---------------|--------------|----------|---|-----------|---------------|--------------------|-------|---|-----------|---------------|--|--|--|--|---------------|--------------------------------------|--|--|--|---------------|--|--|--|--|---------------|-------------------|--|--|--|---------------|---|--|--|--|---------------|-----------------------------|--|--|--|---------------|--|--|--|--|---------------|------------------------------|--|--|--|---------------|--|--|--|--|--|---------------|----|----------|--|---------|----|
| CLAIMS | NUMBER FILED | NUMBER EXTRA | RATE | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total claims | - 20 = | 0 | x \$18.00 | \$0.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Independent claims | - 3 = | 0 | x \$84.00 | \$0.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Multiple Dependent Claims (check if applicable) <input type="checkbox"/> | | | | \$0.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL OF ABOVE CALCULATIONS = | | | | \$0.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. The fees indicated above are reduced by 1/2. | | | | \$0.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| SUBTOTAL = | | | | \$0.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| TOTAL NATIONAL FEE = | | | | \$0.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| Amount to be: | \$ | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| refunded | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| charged | \$ | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

IN THE UNITED STATES DESIGNATED OFFICE/ELECTED OFFICE (DO/EO/US)
OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | |
|--------------------------------------|---|----------------------|
| Inventor: Jurgen MARKL |) | Attorney Docket No.: |
| |) | 7911/83687 |
| U.S. Serial No.: 09/936,852 |) | GKS-101.0 |
| Confirmation No.: 1442 |) | |
| |) | DO/EO/US Examiner: |
| Filed under 35 U.S.C. 371 11/28/2001 |) | Shelby J. Vigil |
| From Int'l Ser. No.: PCT/ES01/00079 |) | |
| Int'l Filing Date: March 2, 2001 |) | Group Art Unit: |
| Priority Date: March 17, 1999 |) | not yet assigned |
| |) | |
| Title: NUCLEIC ACID MOLECULE |) | |
| COMPRISING A NUCLEIC ACID |) | |
| CODING FOR A HEMOCYANIN |) | |

AMENDMENT UNDER 37 C.F.R. § 1.825 INCLUDING
STATEMENTS UNDER 37 CFR § 1.821 and § 1.825

Commissioner for Patents
U.S. Patent and Trademark Office
Box SEQUENCE
P.O. Box 2327
Arlington, VA 22002

Sir:

This paper is a Response to the Notification of Defective Response that was mailed November 18, 2002, together with a Raw Sequence Listing Error Report (copies of both are enclosed herewith), regarding the response to the Notice of Missing Requirements under 35 U.S.C. § 371 that was filed July 3, 2002 in the United States Designated/Elected Office (DO/EO/US).

The Raw Sequence Listing Error Report was based upon the new electronic copy of the Sequence Listing that was filed with that response on July 3, 2002.

Enclosed herewith is a corrected copy of the Sequence Listing, in both Paper and Computer Readable Form. The Paper copy is a page numbered version of the enclosed CRF, formatted for A4 paper. Please substitute the present paper copy of the Sequence Listing into the specification. The present paper copy is substantively identical to that filed with the original patent application papers on September 17, 2001, and is thus already part of the Specification. Pursuant to 37 C.F.R. § 1.825(a), it is hereby stated that no new matter is introduced via this amendment.

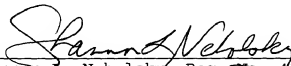
Furthermore, pursuant to 37 C.F.R. § 1.821(h), it is hereby stated that the enclosed submission does not include matter which goes beyond the disclosure in the international application as filed.

Please substitute the enclosed Computer-Readable form of the Sequence Listing into the patent file, as required by 37 U.S.C. § 1.821(e). The file on the CRF is MS-DOS text with line breaks (*.txt) format from Microsoft Word 2000 based on the ASCII output from PatentIn version 2.1, created 03/02/2001 in PatentIn version 2.1 on a Windows 95/PC compatible computer, as modified on 12/18/2002. The Sequence Listing file, "936852.txt" was copied onto the enclosed diskette 12/18/2002.

Pursuant to 37 C.F.R. § 1.821(f), it is hereby stated that the sequence listing information recorded in computer readable form is identical to the written (on paper) Sequence Listing.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

By 
Shannon L. Nebolsky, Reg. No. 41,217

Enclosures

Transmittal Letter
Copy of the Notification of Defective Response
Copy of the Raw Sequence Listing Error Report
Paper Copy of Sequence Listing
Computer Readable Diskette

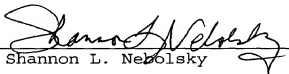
U.S. Ser. No. 09/936,852
Jürgen MARKL

-4-

U.S. PTO Customer No. 24628
WELSH & KATZ, LTD.
120 South Riverside Plaza, 22nd Floor
Chicago, Illinois 60606
Phone (312) 655-1500
Fax No. (312) 655-1501

CERTIFICATE OF EXPRESS MAILING

I hereby certify that this Amendment under 37 C.F.R. § 1.825 including Statements under 37 C.F.R. § 1.821 and § 1.825, together with a substitute Sequence Listing (paper and CRF), Transmittal Letter and its stated enclosures, are being deposited with the United States Postal Service as Express Mail Label No. EV 045460775 US, postage prepaid, in an envelope addressed to: Commissioner for Patents, Box SEQUENCE, P.O. Box 2327, Arlington, VA 22202 on December 18, 2002.


Shannon L. Nebolsky